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| PETITION FOR REVIVAL OF AN APPLICATION FOR PATENT<br>ABANDONED UNAVOIDABLY UNDER 37 CFR 1.137(a)   |   | Docket Number (Optional) |
|--|---|--------------------------|
| First Named Inventor:  | William E. James  | Art Unit: 3711           |
| Application Number:  | 09/674,996  | Examiner: Henry Yuen     |
| Filed:   | Nov. 2, 2000  | ( was: 3764              |
| Title:   | Automatically Variable Stride<br>Walk-Run-Stepper Pedal Exerciser | T. Nguyen )              |
| Attention: Office of Petitions<br><b>Mail Stop Petition</b><br>Commissioner for Patents<br>P.O. Box 1450<br>Alexandria, VA 22313-1450  |   |                          |
| NOTE: If information or assistance is needed in completing this form, please contact<br>Petitions Information at (571) 272-3282.   |   |                          |
| The above-identified application became abandoned for failure to file a timely and proper reply to a notice or action by<br>the United States Patent and Trademark Office. The date of abandonment is the day after the expiration date of the<br>period set for reply in the Office notice or action plus any extensions of time actually obtained. |   |                          |
| <b>APPLICANT HEREBY PETITIONS FOR REVIVAL OF THIS APPLICATION.</b>   |   |                          |
| NOTE: A grantable petition requires the following items:   |   |                          |
| (1) Petition fee.<br>(2) Reply and/or issue fee.<br>(3) Terminal disclaimer with disclaimer fee-required for all utility and plant applications filed<br>before June 8, 1995, and for all design applications; and<br>(4) Adequate showing of the cause of unavoidable delay.  |   |                          |
| 1. Petition fee  |   |                          |
| <input checked="" type="checkbox"/> Small entity – fee \$ <u>250.00</u> (37 CFR 1.17(l)). Applicant claims small entity status.<br>See 37 CFR 1.27.  |   |                          |
| <input type="checkbox"/> Other than small entity – fee \$ _____ (37 CFR 1.17(l)).  |   |                          |
| 2. Reply and/or fee  |   |                          |
| A The reply and/or fee to the above-noted Office action in the form of<br><u>Notice of Appeal</u> (identify the type of reply):  |   |                          |
| <input type="checkbox"/> has been filed previously on _____  |   |                          |
| <input checked="" type="checkbox"/> is enclosed herewith.  |   |                          |
| B The issue fee of \$ _____  |   |                          |
| <input type="checkbox"/> has been filed previously on _____  |   |                          |
| <input type="checkbox"/> is enclosed herewith.   |   |                          |

[Page 1 of 3]

This collection of information is required by 37 CFR 1.137(a). The information is required to obtain or retain a benefit by the public which is to file (and by the USPTO to process) an application. Confidentiality is governed by 35 U.S.C. 122 and 37 CFR 1.11 and 1.14. This collection is estimated to take 8 hours to complete, including gathering, preparing, and submitting the completed application form to the USPTO. Time will vary depending upon the individual case. Any comments on the amount of time you require to complete this form and/or suggestions for reducing this burden, should be sent to the Chief Information Officer, U.S. Patent and Trademark Office, U.S. Department of Commerce, P.O. Box 1450, Alexandria, VA 22313-1450. DO NOT SEND FEES OR COMPLETED FORMS TO THIS ADDRESS. SEND TO: **Mail Stop Petition, Commissioner for Patents, P.O. Box 1450, Alexandria, VA 22313-1450.**

If you need assistance in completing the form, call 1-800-PTO-9199 and select option 2.

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**PETITION FOR REVIVAL OF AN APPLICATION FOR PATENT ABANDONED  
UNAVOIDABLY UNDER 37 CFR 1.137(a)**

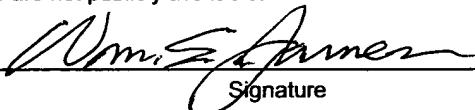
## 3. Terminal disclaimer with disclaimer fee

- Since this utility/plant application was filed on or after June 8, 1995, no terminal disclaimer is required.
- A terminal disclaimer (and disclaimer fee (37 CFR 1.20(d)) of \$ \_\_\_\_\_ for a small entity or \$ \_\_\_\_\_ for other than a small entity) disclaiming the required period of time is enclosed herewith (see PTO/SB/63).

## 4. An adequate showing of the cause of the delay, and that the entire delay in filing the required reply from the due date for the reply until the filing of a grantable petition under 37 CFR 1.137(a) was unavoidable, is enclosed.

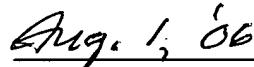
**WARNING:**

Petitioner/applicant is cautioned to avoid submitting personal information in documents filed in a patent application that may contribute to identity theft. Personal information such as social security numbers, bank account numbers, or credit card numbers (other than a check or credit card authorization form PTO-2038 submitted for payment purposes) is never required by the USPTO to support a petition or an application. If this type of personal information is included in documents submitted to the USPTO, petitioners/applicants should consider redacting such personal information from the documents before submitting them to the USPTO. Petitioner/applicant is advised that the record of a patent application is available to the public after publication of the application (unless a non-publication request in compliance with 37 CFR 1.213(a) is made in the application) or issuance of a patent. Furthermore, the record from an abandoned application may also be available to the public if the application is referenced in a published application or an issued patent (see 37 CFR 1.14). Checks and credit card authorization forms PTO-2038 submitted for payment purposes are not retained in the application file and therefore are not publicly available.



Signature

William E. James



Date

Typed or printed name

Registration Number, if applicable

11 Poinsett Ave. #3

864-233-8462

Address

Telephone Number

Greenville SC 29601

Address

Enclosure  Fee Payment Reply Terminal Disclaimer Form Additional sheets containing statements establishing unavoidable delay**CERTIFICATE OF MAILING OR TRANSMISSION (37 CFR 1.8(a))**

I hereby certify that this correspondence is being:

deposited with the United States Postal Service on the date shown below with sufficient postage as first class mail in an envelope addressed to Mail Stop Petition, Commissioner for Patents, P.O. Box 1450, Alexandria, VA 22313-1450.

transmitted by facsimile on the date shown below to the United States Patent and Trademark Office at (571) 273-8300.




Signature

William E. James

Typed or printed name of person signing certificate

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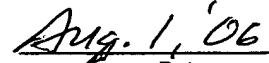
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UNAVOIDABLY UNDER 37 CFR 1.137(a)**

**NOTE:** The following showing of the cause of unavoidable delay must be signed by all applicants or by any other party who is presenting statements concerning the cause of delay.



Signature

William E. James



Date

Typed or printed name

Registration Number, if applicable

(In the space provided below, please explain in detail the reasons for the delay in filing a proper reply.)

1. Petitioner includes also Petition to Make Special due to age and disability, spinal cord injuries causing ongoing severe sleep/rest deficit with many pains, aggravations, sick days.
2. Petitioner saw obvious, important errors in Final Office Action Dec.1,03. Petitioner, expecting a fair and just examiner would reverse such errors, made reply Feb.26,04 (revised per Advisory of Apr.20,04 on Apr.30,04) pointing out errors and import of same. In one error the Action (p. 2, l.18) ascribes to prior art, Rawls, "...independently of stride..." (stride equals rearward movement). Rawls' Abstract (l. 5) describes: "...a dependent action...rearward movement of one pedal causing the forward movement of the other..". The examiner has it exactly opposite. The dependent action is shown throughout.
3. Advisory Action Oct.4,04: "...applicant's arguments not persuasive". Amendment was not entered as not a proper reply.
4. Petitioner conferred with examiner by phone Nov.1 and Dec.1, 04 , examiner not changing position. Petitioner asked outgoing supervisor Nov.10 and new supervisor Dec.14 and 22, 04 to review errors, latter responding' "...have no authority".
5. Petitioner filed Notice of Appeal Dec.6,04, but upon contacting supervisor Dec.14 was told: "application is abandoned and appeal too late". Petitioner asked about Petition to Director whereupon supervisor referred to Special Programs Examiner.
6. Petitioner filed Petition to the Director Jan.14,05 asking to review examiner's errors and reverse holdings based on same.
7. The Petition to the Director was not decided on until Jun.21, 06 as "Dismissed", holding "matter for appeal".
8. In summation, petitioner feels he made honest and proper efforts to advance the examination and could not have avoided the outcome as above described.

(Please attach additional sheets if additional space is needed.)